

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

PRIOR APPLICATION: Examiner: L. Dejesus
Group Art Unit: 2859

CONTINUATION, DIVISIONAL, AND CONTINUATION-IN-PART
PATENT APPLICATION TRANSMITTAL UNDER 37 C.F.R. § 1.53(b)

This is a request for filing a patent application under 37 C.F.R. § 1.53(b).

1. This application is a ☒ Continuation ☐ Divisional ☐ Continuation-in-Part patent application under 37 C.F.R. § 1.53(b), of pending prior application no. 09/117,724, filed on August 5, 1998, of:

Inventor(s): Frank BEERWERTH, Bernhard KRAUS and Katje HONNEFELLER

For: PROTECTIVE CAP FOR INFRARED RADIATION THERMOMETER
(As Amended)

2. The papers enclosed are as follows:

18 Page(s) of specification including
0 Title Page
2 Pages of claims
1 Page of abstract
3 Sheets of drawings containing 7 Figures
Other: _____

3. Amendments

For continuation and divisional applications:

- ☒ [X] Cancel in this application original claims 1-18 in the enclosed copy of prior application before calculating the filing fee. **[At least one original claim must be retained for filing purposes.]**
- ☒ [X] A preliminary amendment is enclosed. (Claims added by this amendment have been properly numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)

4. Oath or Declaration

For continuation and divisional applications:

- ☐ [] A newly executed (original or copy) oath or declaration is enclosed.
- ☒ [X] A copy of an oath or declaration from a prior application is enclosed under 37 C.F.R. § 1.63(d). The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied is considered as part of the disclosure of the accompanying application and is hereby incorporated by reference therein.
- ☐ [] A signed statement deleting inventor(s) named in the prior application is enclosed.

For continuation-in-part applications:

- ☐ [] A newly executed (original or copy) oath or declaration is enclosed.
- ☐ [] An oath or declaration is not enclosed. This application is being filed under 37 C.F.R. § 1.53(f). Applicant(s) await notification from the Patent and Trademark Office of the time set for filing the declaration and paying the filing fees.

5. Relate Back - 35 U.S.C. § 120

☒ Amend the specification by inserting before the first line the sentence:

“This is a ☒ continuation ☐ divisional ☐ continuation-in-part
of copending application(s)

☒ Application No. 09/117,724, filed on August 5, 1998.”

☐ International Application No. _____ filed on _____ and which
designated the U.S.”

6. Priority - foreign applications under 35 U.S.C. § 119(a)-(d) or § 365(b) or PCT
international applications under 35 U.S.C. § 365(a) designating at least one country other
than the U.S.

☐ Priority of the following foreign application(s) is/are claimed:

Country	Application No.	Filed
Germany	196 04 201.1	February 6, 1996

Certified copy(ies): ☐ is/are attached.

☐ will follow.

☒ was/were filed in prior U.S. Application No. 09/117,724 on
August 5, 1998.

7. Assignment

For continuation or divisional applications:

☒ The prior application is assigned of record to Braun Aktiengesellschaft, recorded
August 5, 1998 at Reel/Frame 9702/0892.

☐ An assignment of the invention to _____ and a
PTO Form-1595, Recordation Form Cover Sheet, are enclosed.

For continuation-in-part applications:

☐ An assignment of the invention to _____ and a PTO Form-1595, Recordation Form Cover Sheet, are enclosed.

8. Fee Calculation (37 C.F.R. § 1.16)

CLAIMS FOR FEE CALCULATION				
	Number Filed	Number Extra	at Rate of	Basic Fee Utility \$750.00 Design \$370.00
Total Claims (37 C.F.R. § 1.16(c))	19 - 20 =	0	\$ 18.00 each =	+ \$
Independent Claims (37 C.F.R. § 1.16(b))	2 - 3 =	0	\$ 84.00 each =	+ \$
Multiple dependent claim(s), if any (37 C.F.R. § 1.16(d))			\$280.00	+ \$
SUB-TOTAL =				\$ 750.00
Reduction by ½ for filing by a small entity				- \$
TOTAL FILING FEE =				\$ 750.00

9. Fee Payment

☐ Not Enclosed. **NO FEE IS BEING PAID BY CHECK OR DEPOSIT ACCOUNT AT THIS TIME.**

This application is being filed under the provisions of 37 C.F.R. § 1.53(f).
Applicant(s) await notification from the Patent and Trademark Office of the time set for paying the filing fees.

☒ Please charge our Deposit Account No. 50-0310 in the amount of \$750.00 to cover the filing fee.

☐ The fee for extra claims under 37 C.F.R. § 1.16(d) is not being paid at this time and no authorization is given to charge our deposit account for this fee.

18334 U.S. PTO
07/14/03

10. Small Entity Status is claimed and

- ☐ a statement claiming small entity status is enclosed, or
- ☐ a small entity statement was filed in the prior nonprovisional application and is still proper and desired.

11. ☒ The power of attorney in the prior application is to at least one of the registered practitioners of Morgan, Lewis & Bockius LLP included in the Customer Number provided below to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith, and all correspondence shall be addressed to that Customer Number.

Please address all correspondence to Morgan, Lewis & Bockius LLP at
Customer Number: 009629

12. ☐ Recognize as associate attorney _____.
(name, address, and registration no.)

13. ☒ **PETITION FOR EXTENSION OF TIME.** If any extension of time is necessary for the filing of this application, including any extension in the prior application, application no. 09/431,166, filed November 1, 1999, for the purpose of maintaining copendency between the prior application and the present application, and such extension has not otherwise been requested, such an extension is hereby requested, and the Commissioner is authorized to charge necessary fees for such an extension to Deposit Account No. 50-0310.

14. ☒ **EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be an **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

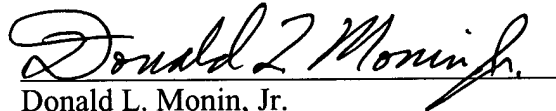
15. Additional papers enclosed:

- ☒ Preliminary Amendment
- ☒ Information Disclosure Statement
- ☒ Form PTO-1449 without references
- ☐ Declaration of Biological Deposit
- ☐ Submission of "Sequence Listing", computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By:


Donald L. Monin, Jr.
Reg. No. 47,256

Dated: July 14, 2003

Customer No. 09629
MORGAN, LEWIS & BOCKIUS LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Telephone: 202-739-3000
Facsimile: 202-739-3001